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6 ATTORNEYS FOR WASHOE COUNTY

8 UNITED STATES DISTRICT COURT

9 DISTRICT OF NEVADA

10 \* \* \*

11 JOHN AND MELISSA FRITZ,

12 Plaintiff,

Case No. 3:20-cv-00681-RCJ-WGC

13 vs.

14 WASHOE COUNTY, a political subdivision  
of the State of Nevada; and DOES 1 through 10  
15 inclusive,

MOTION FOR LEAVE TO FILE  
SUPPLEMENT TO MOTION TO  
DISMISS BASED ON CHANGED  
CIRCUMSTANCES

16 Defendants.  
17

18 Defendant by and through counsel Michael W. Large, Washoe County Deputy District  
19 Attorney, hereby moves for leave to file a supplement to its Motion to Dismiss, ECF No. 10,  
20 based upon changed circumstances and to exceed the page limit of Local Rule 7-3. This motion  
21 is based on the following Memorandum of Points and Authorities.

22 MEMORANDUM OF POINTS AND AUTHORITIES

23 On March 23, 2020, Defendant Washoe County filed its Motion to Dismiss in this  
24 action asserting that Plaintiffs John and Melissa Fritz's Second Amended Complaint ("SAC")  
25 was subject to dismissal based upon FRCP 12(b)(6) under the Full Faith and Credit Act, 28

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1 U.S.C. § 1738, and Nevada's law of claim and issue preclusion, and upon FRCP 12(b)(1) under  
2 the *Rooker-Feldman* doctrine. ECF No. 10.

3 In that motion, Washoe County argued that the only observable difference between the  
4 SAC and the complaint in *Fritz v. Washoe County*, CV13-00756 (Second Judicial District Court of  
5 Nevada) were Plaintiffs' allegations regarding the Estates at Mt. Rose and that a Rule 60  
6 motion in the state court action is the appropriate mechanism to address these allegations. A  
7 few hours later, Plaintiffs John and Melissa Fritz accepted Washoe County's invitation and  
8 filed a Motion for Relief from Judgment under NRCP 60(b)(3) and NRCP 60(b)(6) in the state  
9 court proceeding. See Ex. 1. Washoe County has now responded to that motion. See Ex. 2.  
10 However, because of the peculiar procedural posture this creates, Washoe County respectfully  
11 requests leave to file the attached Supplement to Washoe County's Motion to Dismiss, Ex. 3, to  
12 address the legal issues raised by this new filing and new grounds that exist to for dismissal  
13 and/or this Court's abstention.

14 Dated this 26th day of March 2021.

15  
16 CHRISTOPHER J. HICKS  
17 District Attorney

18 By /s/ Michael W. Large  
19 MICHAEL W. LARGE  
20 Deputy District Attorney  
21 One South Sierra Street  
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25 ATTORNEYS FOR WASHOE COUNTY  
26

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of the Office of the District Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, the foregoing was electronically filed with the United States District Court. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

LUKE BUSBY, ESQUIRE

Dated this 26th day March, 2021.

/s/ C. Theumer  
C. Theumer

EXHIBIT INDEX

- |           |   |
|-----------|---|
| Exhibit 1 | Motion for Relief from Judgment Under NRCP 60(b)(3) and NRCP 60(b)(6)<br>Due to Misconduct in Discovery |
| Exhibit 2 | Washoe County's Opposition to Motion for Relief Under<br>NRCP 60(b)(3) and NRCP 60(b)(6)                |
| Exhibit 3 | Supplement to Defendant's Motion to Dismiss   |